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One who constructs a nuisance is liable for injuries caused by it though he is no longer in possession of it. *Roswell v. Prior* (1701) 12 Mod. *635; *Eastman v. Amoskeag Mfg. Co.* (1862) 44 N. H. 143; see *Hyde Park Light Co. v. Porter* (1897) 167 Ill. 276, 282, 42 N. E. 206. That he can no longer abate the nuisance is no defense. See *Thompson v. Gibson* (1841) 7 M. & W. *456, *461. In New York the grantor of premises is liable only if he still derives some benefit therefrom, or has warranted quiet enjoyment as enjoyed while in his possession. *Slavitz v. Morris Park Estates* (1917) 98 Misc. 314, 162 N. Y. Supp. 888; see *Hanse v. Cowing* (N. Y. 1869) 1 Lans. 288, 293. Statements are made by some text-writers that the grantor remains liable only when he has done some act to affirm or uphold the original wrong. See 1 Wood, *Nuisance* (3d ed. 1893) 102. The position taken by the New York courts, and these statements, it is submitted are unsound, while the instant case is sound. Thus, one who under contract has erected a nuisance on another's land is subsequently liable for injuries caused by it, though clearly he neither is in a position to abate it, nor does he receive a benefit from it, nor does he do any act after its erection to affirm it. *Thompson v. Gibson, supra*. The true basis of the liability as clearly shown by this class of cases is that since the nuisance gives rise to a continuing wrong, the original tort-feasor is liable for any subsequent injuries resulting from it, since his wrong continues as long as the nuisance continues, regardless of his subsequent possession or control.

PARENT AND CHILD—WRONGFUL DEATH—MOTHER OF ILLEGITIMATE CHILD NOT ENTITLED TO SUE.—In an action for the wrongful death of an illegitimate child under a statute permitting suit for the benefit of the parent, *held*, the mother cannot recover. *State for use of Smith v. Hagerstown & Frederick Ry. Co.* (Md. 1921) 114 Atl. 729.

The question in this case is purely statutory. Where a statute expressly permits the natural mother of an illegitimate to bring an action for its wrongful death, there is no doubt about a recovery. *Croft v. Cotton Oil Co.* (1909) 83 S. C. 232, 65 S. E. 216. And where a statute expressly legitimates the child as regards the mother the same is true. *Thompson v. Dela., L. & W. R. R.* (1910) 41 Pa. Super. Ct. 617. Where the wrongful death statute permits an action for the benefit of the next of kin, recovery is allowed provided a statute exists allowing inheritance by and from bastards through the maternal line. *L. T. Dickason Coal Co. v. Liddil* (1911) 49 Ind. App. 40, 94 N. E. 411. Where the wrongful death statute allows the mother to maintain the action, and a statute provides for inheritance by and from the bastard from and to the natural mother, she may recover. *Hadley v. City of Tallahassee* (1914) 67 Fla. 436, 65 So. 545; *cf. Galveston, etc. Ry. v. Walker* (1907) 48 Tex. Civ. App. 52, 106 S. W. 705; *contra, Robinson v. Georgia R. R.* (1903) 117 Ga. 168, 43 S. E. 452. But where a statute defines children to exclude illegitimates, no recovery is allowed. *Runt v. Illinois Cent. R. R.* (1906) 88 Miss. 575, 41 So. 1. And where the natural mother does not inherit from her illegitimate child she cannot recover. *Railway v. Williams* (1900) 78 Miss. 209, 28 So. 853. In the instant case the action is brought for the benefit of the parent in a jurisdiction where a natural mother can inherit from her illegitimate child. *Cf. Barron v. Zimmerman* (1912) 117 Md. 296, 299, 83 Atl. 258. In denying a recovery it will be seen that the Maryland court is in opposition to the weight of authority.

RESTRICTIVE AGREEMENTS—INNOCENT PURCHASER FOR VALUE NOT BOUND.—T, in selling plots from a larger tract, agreed with the plaintiff grantees that the land reserved, as well as that conveyed, should be restricted. The defendant is a purchaser from a grantee of T of another plot from the tract in question; but neither the defendant's nor his grantor's deed contained any mention of the restriction. On

appeal from a temporary restraining order, *held*, order reversed since a purchaser for value and without notice is not bound. *Hancock v. Gumm* (Ga. 1921) 107 S. E. 872.

Most American courts, regarding restrictive agreements as analogous to negative easements, enforce them in equity. *Chapin v. Dougherty* (1911) 165 Ill. App. 426. Some jurisdictions, as that of the instant case, enforce them because they will not permit one to disregard a covenant of his grantor when one has notice on purchasing. *DeGray v. Monmouth Beach Club House Co.* (1892) 50 N. J. Eq. 329, 24 Atl. 388; *Tulk v. Moxhay* (1848) 2 Phil. 774. One who purchases for value without notice, however, takes the land free from the restriction. *Moller v. The Presbyterian Hospital* (1901) 65 App. Div. 134, 72 N. Y. Supp. 483. One who purchases with notice from one who purchased without notice and for value should take free from the restriction. *Cf. Bradford v. Davis* (Mo. 1920) 219 S. W. 617. A purchaser is charged with notice when the restriction is contained in any conveyance necessary to his title. *Peck v. Conway* (1876) 119 Mass. 546. If, however, the restriction is in an instrument outside the purchaser's chain of title, there is no constructive notice. *Glorieux v. Lighthipe* (1915) 88 N. J. L. 199, 96 Atl. 94. Thus, since the restriction was contained in a deed which was not a link in the defendant's chain of title, and, since neither the defendant nor his grantor were shown to have had actual notice, the instant case is sound.

TORTS—INJURY TO LICENSEE—PUBLIC WAY—LEGAL CAUSE.—While standing on a springboard affixed to defendant's property and extending beyond the property line over a public waterway, the plaintiff's intestate, a sixteen year old boy, was killed by the falling of the defendant's electric wires. The springboard had been used by swimmers for more than five years. In an action for damages, on appeal from the dismissal of the complaint, *held*, three judges dissenting, a new trial should be granted. *Hynes v. New York Central R. R. Co.* (1921) 231 N. Y. 229, 131 N. E. 898.

If the plaintiff's son was on the defendant's land he was, because of the habitual use without protest, a licensee. *Driscoll v. The Newark and Rosendale Cement Co.* (1868) 37 N. Y. 637. Generally, a licensee is not protected from negligent acts of nonfeasance. *Faris v. Hoberg* (1892) 134 Ind. 269, 33 N. E. 1028; *Downes v. Elmira Bridge Co.* (1899) 41 App. Div. 339, 58 N. Y. Supp. 628. But the defendant's contention that the boy being on the springboard was thereby on its land so as to forfeit the reasonable protection due to users of the highway seems unwarranted. The board extending over the public waterway was a nuisance. *Reimer's Appeal* (1882) 100 Pa. St. 182. The space above and below the board was public property which the bather as a member of the public was privileged to use. *Cf. Corbett v. Hill* (1870) 22 L. T. R. (N. S.) 263, 39 L. J. Ch. 547. While standing aloft he was at most guilty of touching with his feet a projecting fixture which was an encroachment on public territory. Such an obstructing nuisance should not be the means whereby the defendant may reduce the degree of care due even to such users of the public highway. It is further submitted that the majority opinion is sound in holding that the area covered by the falling wires was so great that there was no causal connection between the use of the springboard and the injury. *Cf. Laidlaw v. Sage* (1899) 158 N. Y. 73, esp. 79, 52 N. E. 679. The instant case, therefore, seems to be correctly decided.

TROVER AND CONVERSION—MONEY—MISAPPROPRIATION OF FUNDS RECEIVED.—The defendant sold the plaintiff's wagon loader after the revocation of his agency by the plaintiff and kept the proceeds. The action is for the conversion of the proceeds. *Held*, for the plaintiff. *George Haiss Mfg. Co., Inc. v. Becker* (3d Dept. 1921) 198 App. Div. 123, 189 N. Y. Supp. 791.